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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

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CLERK US DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY ___ DEPUTY

'08 MJ 2095

UNITED STATES OF AMERICA	) Magistrate Docket No.
Plaintiff	)
	) COMPLAINT FOR VIOLATION OF:
v.	) **TITLE 8 U.S.C. § 1326 (Felony)**
Ramon RIVERA-Cardenas	) **Attempted Entry After Deportation**
Aka: Ramon CARDENAS-Rivera	)
	) **TITLE 18 U.S.C. § 1544 (Felony)**
	) **Misuse of Passport**

The undersigned complainant, being duly sworn, states:

Count 1

On or about July 9, 2008, within the Southern District of California, defendant Ramon RIVERA-Cardenas, an alien, who previously had been excluded, deported and removed from the United States to Mexico, attempted to enter the United States with the purpose; i.e. conscious desire, to enter the United States at the San Ysidro Port of Entry, without the Attorney General of the United States or his designated successor, the Secretary of the Department of Homeland Security (Title 6, United States Code, Sections 202(3) and (4), and 557), having expressly consented to the defendant's reapplication for admission into the United States; in violation of Title 8, United States Code, Section 1326.

Count 2

On or about July 9, 2008, within the Southern District of California, defendant Ramon RIVERA-Cardenas did knowingly and willfully use a passport issued or designed for the use of another, with the intent to gain admission into the United States in the following manner, to wit: Defendant applied for entry to the United States by presenting US passport number 424030577, issued to Carlos PONCE, to a Department of Homeland Security, Customs and Border Protection Officer, knowing full well that he was not Carlos PONCE and that the passport was not issued or designed for his use. All in violation of Title 18, United States Code, Section 1544.

And the complainant further states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.

Richard M. Escott
Senior Special Agent
U.S. Department of State
Diplomatic Security Service

SWORN AND SUBSCRIBED TO before me
This 10th day of July, 2008.

UNITED STATES MAGISTRATE JUDGE

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PROBABLE CAUSE STATEMENT & STATEMENT OF FACTS

I, Richard Michael Escott, being duly sworn, declare under penalty of perjury that the following statement is true and correct:

1. I am a Senior Special Agent (SSA) with the U.S. Department of State, Diplomatic Security Service (DSS) assigned to the San Diego, CA Resident Office. I have been so employed for nine years and have investigated numerous violations involving the false application for and misuse of United States Passports and Visas.

2. During the performance of my duties, I have obtained evidence that DEFENDANT, Ramon RIVERA-Cardenas, used the passport issued for the use of another and attempted to reenter the United States after having been deported. This Affidavit is made in support of a complaint against DEFENDANT for violation of Title 18, U.S.C., Section 1544, Misuse of a Passport and Title 8 U.S.C., Section 1326, Attempted Reentry After Deportation.

3. On 07/09/2008, at approximately 1417 hours, DEFENDANT presented himself to a Department of Homeland Security, Customs and Border Protection (CBP) Officer at the pedestrian lines of the San Ysidro Port of Entry, to apply for admission into the United States. DEFENDANT identified himself with U.S. Passport number 424030577, bearing the name Carlos PONCE, DPOB 06/10/1982, California, U.S.A. and a photograph that was not DEFENDANT. The CBP Officer recognized the discrepancy and he was referred for secondary inspection.

4. On 07/09/2008, at approximately 1417 hours, the Affiant was standing at the "soft secondary" inspection counter at the San Ysidro Port of Entry and observed as CBP Officers conducting an inspection inquired as to Defendant's identity. Defendant repeatedly claimed that he was in fact Carlos PONCE, despite the discrepancy in the photograph and having the name "RIVERA" tattooed on his forearm. Query of Defendant's index fingerprints in a DHS database revealed that he had previously been apprehended under the name Ramon CARDENAS-RIVERA. SUBJECT was referred for secondary inspection.

5. On 07/09/2008, at approximately 1600 hours, DEFENDANT was retrieved from secondary inspection seating area and was brought to an upstairs interview room. The Affiant, assisted by a CBP Enforcement Officer, who also acted as translator when needed, interviewed DEFENDANT. DEFENDANT read his Miranda warning aloud in Spanish from a written copy. He indicated that he understood and waived his right to counsel. He admitted that his true name was Ramon RIVERA-Cardenas, DPOB, 02/01/1982, Acapulco, Gurrero, Mexico. He stated that he was a citizen of Mexico and not a citizen of the United States. DEFENDANT said that he had previously been living in the United States and that he had been deported by a U.S. Immigration Judge and removed on 07/02/2008 excluded for 10 years. DEFENDANT admitted that on 07/07/2008 he met a smuggler on the streets of Tijuana who offered to sell him a US Passport for $250. Defendant admitted that on 07/09/2008 he purchased a US Passport in the identity of Carlos PONCE from the same smuggler for $250. DEFENDANT then used the passport on 07/09/2008, to apply for entry into the United States at the San Ysidro Port of Entry. DEFENDANT identified US Passport number 424030577 in the identity of Carlos

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PONCE as the passport he purchased from the smuggler and subsequently used to apply for entry into the US.

6. DEFENDANT acknowledged that he knew that the US Passport that he used was not issued or designed for his use. He also admitted that he had not applied for or received permission from the United States Government to reenter the U.S. after having been deported. Defendant made an oral recorded statement as to the elements of the charges.

7. On 07/09/2008, a CBP Officer conducted DHS record checks. Records revealed that DEFENDANT had been ordered deported, by an Immigration Judge, from the United States on or about 07/02/2008.

8. On 07/10/2008, affiant contacted VICTIM, Carlos Ponce, who advised that his passport along which his children's passports had been stolen when his brother's truck was stolen in Tijuana, Mexico on 07/04/2008.

9. On the basis of the facts presented in this probable cause statement consisting of 2 pages, there is probable cause to believe that the defendant named in this probable cause statement committed the offence on 07/09/2008 - in violation of Title18, United States Code, Section 1544: Misuse of a passport - when he knowingly and willfully used the passport belonging to another, Carlos PONCE, knowing that it was not issued or designed for his use, in order to gain admission into the United States and Title 8, United States Code, Section 1326: Attempted Reentry After Deportation – when being an alien, who previously had been excluded, deported and removed from the United States to Mexico, attempted to enter the United States with the purpose; i.e. conscious desire, to enter the United States at the San Ysidro Port of Entry, without the Attorney General of the United States or his designated successor, the Secretary of the Department of Homeland Security (Title 6, United States Code, Sections 202(3) and (4), and 557), having expressly consented to the defendant's reapplication for admission into the United States.

[signature] 7/10/08 1350hrs

Richard M. Escott — Date — Time
Senior Special Agent
U.S. Department of State
Diplomatic Security Service

[signature] 7/10/08 1357hrs

UNITED STATES MAGISTRATE JUDGE — Date — Time